

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:05-CV-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**OBJECTIONS AND RESPONSES TO TYSON FOODS, INC.'s,
REQUESTS FOR PRODUCTION OF DOCUMENTS SERVED ON APRIL 25, 2007**

COMES NOW, the Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA, (hereinafter "the State") and hereby responds to Separate Defendant Tyson Foods Inc.'s April 25, 2007 Requests for Production of Documents to Plaintiff.

GENERAL OBJECTIONS

1. The State objects to these discovery requests to the extent that they seek the discovery of information that is protected by the attorney-client privilege, the work product doctrine, and / or any other applicable privilege or protection under state or federal law.

2. The State objects to these discovery requests to the extent that they seek the discovery of information that is already in the possession of Defendant Tyson Foods, Inc., is obtainable from another source that is more convenient, less burdensome or less expensive, or is as accessible to Defendant Tyson Foods, Inc. as it is to the State. As such, the burden of obtaining such sought-after information is substantially the same, or less, for the Defendant Tyson Foods, Inc. as it is for the State.

3. The State objects to these discovery requests to the extent that they are overly broad, oppressive, unduly burdensome, and expensive to answer. Providing answers to such discovery requests would needlessly and improperly burden the State.

4. The State objects to these discovery requests to the extent that they improperly seek identification of “all” documents for each request. Such discovery requests are thus overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of responsive information to such discovery requests.

5. The State objects to the extent that discovery sought is unreasonably cumulative or duplicative.

6. The State objects to these discovery requests to the extent that they do not state with the required degree of specificity and particularity what information is being sought. As such, such discovery requests are vague, indefinite, ambiguous and not susceptible to easily discernible meaning.

8. The State objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues.

9. The State objects to the definition of “you”, “your” and “yourself” as being improper and overly broad. The State of Oklahoma is the plaintiff in this action. Consistent with this fact, the State will construe the terms “you”, “your” and “yourself” used in this discovery to mean the State of Oklahoma, and the State of Oklahoma will respond using this definition and not the definition contained in Defendant Tyson Foods, Inc’s definitions section.

10. By submitting these responses, the State does not acknowledge that the requested information is necessarily relevant or admissible. The State expressly reserves the right to object

to further discovery into the subject matter of any information provided and to the introduction of such information into evidence.

RESPONSE TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce all documents which you contend support to tend to support your statement on page 2 of your Responses to Requests for Admission that “the listing of elemental chemicals on various EPA lists used in CERCLA is intended to include compounds of such chemicals for purposes of determining whether a chemical/chemical compound is a hazardous substance for purposes of CERCLA liability.”

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protections. Further, the State objects to this request to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any of these objections, the State’s statement that “the listing of elemental chemicals on various EPA lists used in CERCLA is intended to include compounds of such chemicals for purposes of determining whether a chemical/chemical compound is a hazardous substance for purposes of CERCLA liability” is a legal theory which will be fully briefed at the appropriate stage in this litigation. It is improper to ask a party to fully brief a legal theory in a request for production, therefore the State the objects to responding to this request.

REQUEST FOR PRODUCTION NO. 2: Please produce the “issued orders” and “agreements” entered into by the State with respect to improving “WWTP facilities” referenced by you in Response to Request No. 32 on page 16 of your Responses to Request for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

The State objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. The State further objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any of these objections, see attached Exhibit 1 and documents previously produced at the Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents discussing, referring or relating to the “limited occasions...[in which], a sewage pond owned or maintained by a city or town overflowed during a storm” referenced by you in Response to Request No. 33 on page 17 of your Responses to Request for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

The State objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the

amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. The State also objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of these objections, see attached Exhibit 2. Subject to and without waiver of any of these objections, the State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 4: Please produce all documents discussing, referring or relating to any administrative, regulatory or other legal enforcement action brought by the State which you contend constitutes a "prohibition" by the State of the use of commercial fertilizer under the State's general authority to "prohibit the creation of a nuisance or pollution of the waters of the State" as described by you in Response to Request No. 120 on page 49 of your Response to Request for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and

unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of these objections, the State’s response is a legal statement. Specifically, there are laws which prohibit pollution and the creation of a public nuisance from any number of activities, including the application of commercial fertilizer.

REQUEST FOR PRODUCTION NO. 5: Please produce all documents which you contend support your statement that “[t]he constitutes of poultry litter have been found throughout the IRW” in Response to Request No. 147 on page 56 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

The State objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of these objections, the State responds as follows: The State has identified numerous documents which the State contends shows the degradation and pollution of the Illinois River Watershed from the constituents of poultry litter. For example, the

State refers you to its agency productions, its Court Ordered Scientific Productions, and the State's responses to Defendants' discovery requests. Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court's Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 6: Please produce copies of the particular contracts with specific contract poultry growers to which you referred in your statement in Response to Requests No. 152 on page 58 of your Responses to Request for Admission that "[i]legal activity inevitably and foreseeably results from the poultry operations carried out pursuant to some contracts."

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objections, the State responds as follows: The Tyson Defendants' are already in possession of their contracts with poultry growers and the State is seeking copies of all these contracts pursuant to discovery requests. The State will review contracts of the other Defendants to the extent they have been produced in order to determine whether they can be produced without violating any provisions of the Court's Confidentiality Order.

REQUEST FOR PRODUCTION NO. 7: Please produce copies of all documents that constitute the evidence of the amount of poultry litter applied in the IRW produced by poultry producers under contract with each defendant that you claim to have in Responses to No. 153 on pg 58 of your responses to the Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

The State objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: The State has requested this information from the Defendants and, to the extent it has been provided, the Tyson Defendants are already in possession of information relating to their operations. Additional information may be found in the grower and applicator records of the Oklahoma Department of Agriculture, Food and Forestry. The State has previously provided these records and will produce them again at the ODAFF document production. The State has also provided additional information on the amount of waste applied in the IRW in response to the Defendants' other discovery requests, including the State's Court Ordered Scientific Production (See

Attached Index). Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court's Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 8: Please produce copies of all documents that constitute the evidence of the amount of phosphorus compounds in the environment in the IRW originating from poultry houses under contract with each defendant that you claim to have in Response to Request No. 155 on page 59 of your Responses to Request for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

The State objects to this request because Tyson Defendants' mischaracterize the original RFA and the State's response to Request No. 155 by referring to evidence for "each defendant." The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: Information may be found in the grower and applicator records of the Oklahoma Department of

Agriculture, Food and Forestry. The State has previously provided these records and will produce them again at the ODAFF document production. The State has also provided additional information constituting evidence of the amount of phosphorus compounds produced in response to the Defendants' other discovery requests, including the State's Court Ordered Scientific Production (See Attached Index). Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court's Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 9: Please produce copies of all documents that constitute the evidence of the amount of nitrogen compounds in the environment in the IRW originating from poultry houses under contract with each defendant that you claim to have in Response to Request No. 157 on page 60 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

The State objects to this request because Tyson Defendants' mischaracterize the original RFA and the State's response to Request No. 157 by referring to evidence for "each defendant." The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is

overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: Information may be found in the grower and applicator records of the Oklahoma Department of Agriculture, Food and Forestry. The State has previously provided these records and will produce them again at the ODAFF document production. The State has also provided additional information constituting evidence of the amount of nitrogen compounds produced in response to the Defendants’ other discovery requests, including the State’s Court Ordered Scientific Production (See Attached Index). Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court’s Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 10: Please produce copies of all documents that constitute the evidence of the amount of arsenic compounds in the environment in the IRW originating from poultry houses under contract with each defendant that you claim to have in Response to Request No. 159 on page 60 on your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

The State objects to this request because Tyson Defendants’ mischaracterize the original RFA and the State’s response to Request No. 159 by referring to evidence for “each defendant.” The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this

response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: Information may be found in the grower and applicator records of the Oklahoma Department of Agriculture, Food and Forestry. The State has previously provided these records and will produce them again at the ODAFF document production. The State has also provided additional information constituting evidence of the amount of arsenic compounds produced in response to the Defendants’ other discovery requests, including the State’s Court Ordered Scientific Production (See Attached Index). Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court’s Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 11: Please produce copies of all documents that constitute the evidence of the amount of zinc compounds in the environment in the IRW originating from poultry houses under contract with each defendant that you claim to have in Response to Request No. 161 on page 61 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

The State objects to this request because Tyson Defendants’ mischaracterize the original RFA and the State’s response to Request No. 161 by referring to evidence for “each defendant.” The State objects to this request to the extent it seeks information protected by the attorney client

privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: Information may be found in the grower and applicator records of the Oklahoma Department of Agriculture, Food and Forestry. The State has previously provided these records and will produce them again at the ODAFF document production. The State has also provided additional information constituting evidence of the amount of zinc compounds produced in response to the Defendants' other discovery requests, including the State's Court Ordered Scientific Production (See Attached Index). Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court's Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 12: Please produce copies of all documents that constitute the evidence of the amount of copper compounds in the environment in the IRW originating from poultry houses under contract with each defendant that you claim to have in Response to Request No. 163 on page 62 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

The State objects to this request because Tyson Defendants' mischaracterize the original RFA and the State's response to Request No. 163 by referring to evidence for "each defendant." The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: Information may be found in the grower and applicator records of the Oklahoma Department of Agriculture, Food and Forestry. The State has previously provided these records and will produce them again at the ODAFF document production. The State has also provided additional information constituting evidence of the amount of copper compounds produced in response to the Defendants' other discovery requests, including the State's Court Ordered Scientific Production (See Attached Index). Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court's Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 13: Please produce copies of all documents that constitute the evidence of the amount of hormones in the environment in the IRW originating from poultry houses under contract with each defendant that you claim to have in Response to Request No. 164 on page 62 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

The State objects to this request because Tyson Defendants' mischaracterize the original RFA and the State's response to Request No. 164 by referring to evidence for "each defendant." The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: Information may be found in the grower and applicator records of the Oklahoma Department of Agriculture, Food and Forestry. The State has previously provided these records and will produce them again at the ODAFF document production. The State has also provided additional information constituting evidence of the amount of hormones produced in response to the Defendants' other discovery requests, including the State's Court Ordered Scientific Production

(See Attached Index). Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court's Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 14: Please produce copies of all documents that constitute the evidence of the amount of bacteria in the environment in the IRW originating from poultry houses under contract with each defendant that you claim to have in Response to Request No. 165 on page 62 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

The State objects to this request because Tyson Defendants' mischaracterize the original RFA and the State's response to Request No. 165 by referring to evidence for "each defendant." The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: Information may be found in the grower and applicator records of the Oklahoma Department of

Agriculture, Food and Forestry. The State has previously provided these records and will produce them again at the ODAFF document production. The State has also provided additional information constituting evidence of the amount of bacteria produced in response to the Defendants' other discovery requests, including the State's Court Ordered Scientific Production (See Attached Index). Expert opinion, to the extent that it has or will be developed, will be disclosed in accordance with the Court's Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 15: Please produce copies of all documents that discuss, describe, reference or relate to the overflow, leaching, migration, release, discharge, seeping, pumping, transportation or disposition of water, wastewater, sludge or biosolids in to the environment of the IRW from the State-owned sewage lagoons referenced by you in Response to Request No. 166 on page 63 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the

request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without wavier of any objection, the State responds as follows: This information has previously been produced to the Defendants through an Open Records Requests at the Oklahoma Department of Tourism, through the Oklahoma Department of Environmental Quality document production, Legal Division, Box 2, File no. 97-316, Legal Division Box 3, File Nos. 99-420 and 99-423, Water Quality Division Box 33, File No. S-2172, and will also be produced at the Oklahoma Department of Tourism document production. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 16: Please produce copies of all documents that discuss or relate to the ‘educational or scientific’ poultry litter applications by the State at the “demonstration sites” referenced by you in Response to Request No. 169 on page 63 and 64 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the

request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any objection, without limitation, the State refers you to the following documents:

1. *Demonstrating BMP's to Protect Surface Water Quality from Land Application from Surface Wastes*, by Storm et.al.

http://www.okcc.state.ok.us/WQ/WQ_reports/REPORT057.pdf

2. Illinois River Implementation Program, 1996 Peacheater Creek Implementation Report

http://www.okcc.state.ok.us/WQ/WQ_reports/REPORT085_peacheater_creek.pdf

3. Watershed Protection through Manure Marketing (Pilot Program), Final Report

http://www.okcc.state.ok.us/WQ/WQ_reports/report0800.pdf

Subject to and without waiver of its objections, the State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 17: Please produce copies of the grazing leases between the State and others with respect to the “Cherokee Wildlife Management Area” referenced by you in the Response to Request No. 174 on page 65 of your Responses to Requests for Admission and all renewals, extensions, amendments or assignments of such leases.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

The State objects to this discovery request to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It

may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without wavier of any objection, the State will produce responsive documents at the Oklahoma Department of Wildlife Conservation Document production.

REQUEST FOR PRODUCTION NO. 18: Please produce copies of all documents that embody or relate to the “permits” issued by the State “allowing the land applications of biosolids...in the Illinois River Watershed” referenced by you in Response to Request No. 178 on page 67 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without wavier of any objection, this information has previously been produced at the Oklahoma Department of Environmental Quality, specifically, Water Quality Division Box No. 43.

REQUEST FOR PRODUCTION NO. 19: Please produce copies of all documents that embody or relate to the State-issued “permits for construction or dredging within a streambed of the

Illinois River Watershed” referenced in Response to Request No. 198 on page 73 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: The State has produced documents responsive to this request through an Open Records Request at the Oklahoma Department of Mines and through the Oklahoma Department of Environmental Quality document production. The State will supplement this response as additional information is identified.

REQUEST FOR PRODUCTION NO. 20: With reference to your attempt in Response to Request No. 218 on page 80 of your Responses to Requests for Admissions to support your denial of that request by interpreting the phrase “have not conducted a Natural Resources Damage Assessment” to mean “has not completed” a Natural Resource Damage Assessment, please produce all documents that you contend constitute relate to an ongoing but not yet completed “Natural Resources Damage Assessment” pursuant to 43 C.F.R. Part 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any objection, documents not previously produced through the State’s Court Ordered production will be disclosed pursuant to the Court’s Order regarding expert and damage reports.

REQUEST FOR PRODUCTION NO. 21: Please produce copies of all documents that describe, reference, or relate to the phosphorus compound “removal activities” you allege to have conducted in Response to Request No. 220 on page 80 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It

may be impossible to locate “all” documents or each item of information responsive to the request.

The State objects to this discovery request to the extent that it does not state with the required degree of specificity and particularity what information is being sought. As such, the discovery request is vague, indefinite, ambiguous, and not susceptible to easily discernible meaning. As the phrase “removal activities” is not defined and the State has already produced a large volume of documents relating to its efforts to address phosphorus compounds, producing “all documents” that “describe, reference, relate to the phosphorus compound ‘removal activities’” would be overly cumulative, duplicative, burdensome, and would impose upon the State a burden and expense which outweighs its likely benefit. F.R.Civ.P. 26(b)(2).

REQUEST FOR PRODUCTION NO. 22: Please produce copies of all documents that describe, reference or relate to the nitrogen compound “removal activities” you allege to have conducted in Response to Request No. 222 on page 81 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

The State objects to this discovery request to the extent that it does not state with the required degree of specificity and particularity what information is being sought. As such, the discovery request is vague, indefinite, ambiguous, and not susceptible to easily discernible meaning. As the phrase “removal activities” is not defined and the State has already produced a large volume of documents relating to its efforts to address nitrogen compounds, producing “all documents” that “describe, reference, relate to the nitrogen compound ‘removal activities’” would be overly cumulative, duplicative, burdensome, and would impose upon the State a burden and expense which outweighs its likely benefit. F.R.Civ.P. 26(b)(2).

REQUEST FOR PRODUCTION NO. 23: Please produce copies of all documents that describe, reference or relate to the arsenic compound “removal activities” you allege to have conducted in Response to Request No. 224 on page 82 of your Response to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

The State objects to this discovery request to the extent that it does not state with the required degree of specificity and particularity what information is being sought. As such, the discovery request is vague, indefinite, ambiguous, and not susceptible to easily discernible meaning. As the phrase “removal activities” is not defined and the State has already produced a large volume of documents relating to its efforts to address arsenic compounds, producing “all documents” that “describe, reference, relate to the arsenic compound ‘removal activities’” would be overly cumulative, duplicative, burdensome, and would impose upon the State a burden and expense which outweighs its likely benefit. F.R.Civ.P. 26(b)(2).

REQUEST FOR PRODUCTION NO. 24: Please produce copies of all documents that describe, reference or relate to the zinc compound “removal activities” you allege to have conducted in Response to Request No. 226 on page 83 of your Response to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

The State objects to this discovery request to the extent that it does not state with the required degree of specificity and particularity what information is being sought. As such, the discovery request is vague, indefinite, ambiguous, and not susceptible to easily discernible meaning. As the phrase “removal activities” is not defined and the State has already produced a large volume of documents relating to its efforts to address zinc compounds, producing “all documents” that “describe, reference, relate to the zinc compound ‘removal activities’” would be overly cumulative, duplicative, burdensome, and would impose upon the State a burden and expense which outweighs its likely benefit. F.R.Civ.P. 26(b)(2).

REQUEST FOR PRODUCTION NO. 25: Please produce copies of all documents that describe, reference or relate to the copper compound “removal activities” you allege to have conducted in Response to Request No. 228 on page 83 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

The State objects to this discovery request to the extent that it does not state with the required degree of specificity and particularity what information is being sought. As such, the discovery request is vague, indefinite, ambiguous, and not susceptible to easily discernible meaning. As the phrase “removal activities” is not defined and the State has already produced a large volume of documents relating to its efforts to address copper compounds, producing “all documents” that “describe, reference, relate to the copper compound ‘removal activities’” would be overly cumulative, duplicative, burdensome, and would impose upon the State a burden and expense which outweighs its likely benefit. F.R.Civ.P. 26(b)(2).

REQUEST FOR PRODUCTION NO. 26: Please produce copies of all documents that describe, reference or relate to the hormones “removal activities” you allege to have conducted in Response to Request No. 229 on page 83 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

In its Response to Request for Admission No. 229, after objecting that there is only one Plaintiff in this case, the State of Oklahoma, the State admitted that it had not “conducted any removal activities designed to reduce the level of hormones in the Illinois River Watershed.” Therefore, the State has no documents which respond to this request.

REQUEST FOR PRODUCTION NO. 27: Please produce copies of all documents that describe, reference or relate to the bacteria “removal activities” you allege to have conducted in Response to Request No. 230 on page 84 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 27:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this response to the extent that

it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

The State objects to this discovery request to the extent that it does not state with the required degree of specificity and particularity what information is being sought. As such, the discovery request is vague, indefinite, ambiguous, and not susceptible to easily discernible meaning. As the phrase “removal activities” is not defined and the State has already produced a large volume of documents relating to its efforts to address bacteria, producing “all documents” that “describe, reference, relate to the bacteria ‘removal activities’” would be overly cumulative, duplicative, burdensome, and would impose upon the State a burden and expense which outweighs its likely benefit. F.R.Civ.P. 26(b)(2).

REQUEST FOR PRODUCTION NO. 28: Please produce copies of all documents that reflect, reference or relate to the costs incurred by the State in hauling poultry litter out of the IRW as alleged in Response to Request No. 231 on page 84 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 28:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’

resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State responds as follows: Documents responsive to this request were produced at the Oklahoma Conservation Commission and the Office of the Oklahoma Secretary of the Environment’s document productions. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 29: Please produce copies of all documents that reflect, reference or relate to the costs incurred by the State in managing and disposing of poultry litter within or outside of the IRW as alleged in Response to Request No. 232 on page 84 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 29:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of

litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiving any objection, the State responds as follows: Documents not already previously produced through agency productions at Oklahoma Conservation Commission and the Office of the Oklahoma Secretary of Environment will be provided in accordance with the Court’s Scheduling Order regarding expert reports. The State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 30: Please produce copies of all notices, advisories, written communications and other documents that comprise or relate to instances in which the State has advised people not to swim in waters in the IRW due to pollution or water quality conditions as alleged in Response to Request No. 242 on page 87 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 30:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this

request to the extent that it seeks identification of “all” documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate “all” documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State refers you, without limitation, to the following:

1. Blue Green Algae Fact Sheet
<http://www.deq.state.ok.us/factsheets/customer/BlueGreenFS.pdf>
2. Swimming in Oklahoma’s Rivers, Lakes and Streams
<http://www.deq.state.ok.us/factsheets/water/swimming.pdf>
3. Coordinated Watershed and Restoration Protection Strategy for Oklahoma’s Impaired Scenic Rivers (Per SB 972) 2002, 2004-2006 Update:
<http://www.environment.ok.gov/>.
4. OWRB 2001 through 2005 BUMP Reports.
<http://www.owrb.ok.gov/quality/monitoring/bump.php>.
5. Oklahoma’s Beneficial Use Monitoring Program raw data given at the OWRB document production and located in the sliding filing cabinets.
6. Oklahoma Department of Environmental Quality (1998 -2004), Water Quality Assessment Integrated Reports.
<http://www.deq.state.ok.us>
7. USGS Preliminary Analysis of Phosphorus Concentrations and Fecal-Indicator Bacteria Counts at Selected Sites in the Illinois River Basin in Oklahoma, 1997-2001. OSRC Log 2-13
8. USGS Surface Water Data for the Illinois River Basin, Water Quantity and Quality parameters.
http://ar.water.usgs.gov/sun/data-bin/get_data?control=multiple&group_nm=illinois
9. OWRB Water Quality Data Viewer, all stations in the Illinois River Watershed, including Lake Tenkiller.
<http://www.owrb.ok.gov/maps/server/wims.php>

Subject to and without waiver of any objections, the State will supplement as additional information is identified and as agency productions proceed.

REQUEST FOR PRODUCTION NO. 31: Please produce copies of all notices, advisories, written communications and other documents that comprise or relate to instances in which the State has advised people not to drink water which comes from the Illinois River Watershed due to pollution or water quality conditions as alleged in Response to Request No. 243 on page 87 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 31: The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the following systems, without limitation, have been under boil orders:

1. Adair RWD No. 1 (Cherry Tree).
2. Cherokee County RWD No. 7.
3. Eagle Bluff (Thunderbird Resort).
4. Illinois River Store, LLC.
5. Sparrowhawk Camp.

6. Sugar Mountain.

Subject to and without waiver of any objection, the State will supplement this response with the above referenced orders and any additional information pertaining to this request as it is identified.

REQUEST FOR PRODUCTION NO. 32: Please produce copies of all notices, advisories, written communications and other documents that comprise or relate to instances in which the State has advised people not to consume water supplied by the rural or municipal water treatment facilities which draw drinking water from the IRW due to pollution or water quality conditions as alleged in Response to Request No. 244 on page 88 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 32:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, see the State's response to request No.31.

REQUEST FOR PRODUCTION NO. 33: Please produce copies of all notices, advisories, written communications and other documents that comprise or relate to instances in which the State has advised people not to eat fish which come from the waters in the IRW due to pollution or water quality conditions as alleged in Response to Request No. 245 on page 88 of your Responses to Requests for Admission.

RESPONSE TO REQUEST FOR PRODUCTION NO. 33:

The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. The State also objects to these discovery requests to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the proposed discovery in resolving the issues. Further, the State objects to this response to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed.R.Civ.P. 26(b)(4)(A) and (B). The State objects to this request to the extent that it seeks identification of "all" documents for the request. As such, the request is overly broad and unduly burdensome. It may be impossible to locate "all" documents or each item of information responsive to the request.

Subject to and without waiver of any objection, the State refers you to the following:

1. DEQ Fish Consumption Guidance Mercury Advisory Fact Sheet.

<http://www.deq.state.ok.us/factsheets/water/swimming.pdf>

The State will supplement as additional information is identified and as agency productions proceed.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 2007, the foregoing document was mailed to the following, with postage thereon prepaid:

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/s/ M. David Riggs

M. David Riggs